

**§ 422.315 Review of our records related to the debt.**

(a) *Notification by the debtor.* The debtor may request to inspect or copy our records related to the debt.

(b) *Our response.* In response to a request from the debtor described in paragraph (a) of this section, we will notify the debtor of the location and time at which the debtor may inspect or copy our records related to the debt. We may also, at our discretion, mail to the debtor copies of the records relating to the debt.

**§ 422.317 Review of the debt.**

(a) *Notification and presentation of evidence by the debtor.* A debtor who receives a notice described in § 422.305(b), § 422.306(b), or § 422.310(c) has a right to have a review of the debt and the payment schedule for Federal salary offset stated in the notice. To exercise this right, the debtor must notify us and give us evidence that he or she does not owe all or part of the debt, or that we do not have the right to collect it, or that the payment schedule for Federal salary offset stated in the notice would cause financial hardship.

(1) If the debtor notifies us and presents evidence within 60 calendar days from the date of our notice (except as provided for Federal salary offset in paragraph (a)(3) of this section), we will not take the action described in our notice unless and until review of all of the evidence is complete and we send the debtor the findings that all or part of the debt is overdue and legally enforceable.

(2) If the debtor notifies us and presents evidence after that 60 calendar-day period expires (except as provided for Federal salary offset in paragraph (a)(4) of this section) and paragraph (b) of this section does not apply, the review will occur, but we may take the actions described in our notice without further delay.

(3) If the debtor notifies us and presents evidence within 30 calendar days from the date of our notice, we will not refer the debt for Federal salary offset unless and until review of all of the evidence is complete and we send the debtor the findings that all or part of the debt is overdue and legally enforceable and (if appropriate) the findings

on the payment schedule for Federal salary offset.

(4) If the debtor notifies us and presents evidence after that 30 calendar-day period expires and paragraph (b) of this section does not apply, the review will occur, but we may refer the debt for Federal salary offset without further delay.

(b) *Good cause for failure to timely request review.* (1) If we decide that the debtor has good cause for failing to request review within the applicable period mentioned in paragraphs (a)(1) and (a)(3) of this section, we will treat the request for review as if we received it within the applicable period.

(2) We will determine good cause under the rules in § 422.410(b)(1) and (2) of this chapter.

(c) *Review of the evidence.* The review will cover our records and any evidence and statements presented by the debtor.

(d) *Special rules regarding Federal salary offset.* (1) When we use Federal salary offset to collect a debt owed by an employee of the Federal Government, an official designated in accordance with 5 U.S.C. 5514(a)(2) will conduct the review described in this section and will issue the findings.

(2) In addition to the requirements in paragraphs (a) and (b) of this section, the Federal employee must submit the request for review in writing. The request must

(i) Be signed by the employee,

(ii) Explain with reasonable specificity the facts and evidence that support the employee's position, and

(iii) Include the names of any witnesses.

(3) In reviewing the payment schedule described in the notice to the Federal employee, the reviewing official must apply the rules in § 422.415(b), (c), and (d) of this chapter regarding financial hardship.

(4) The reviewing official will review our records and any documents, written statements, or other evidence submitted by the debtor and issue written findings.

(5) The reviewing official will complete the review within 60 calendar

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days from the date on which the request for review and the debtor's evidence are received. If the reviewing official does not complete the review within that 60-day period and the debt was referred to the Department of the Treasury for Federal salary offset, we will notify the Department of the Treasury to suspend Federal salary offset. Offset will not begin or resume before we send the debtor findings that all or part of the debt is overdue and legally enforceable or (if appropriate) findings on the payment schedule.

(e) *The findings.* (1) Following the review described in paragraphs (c) or (d) of this section, we will send the written findings to the debtor. The findings will state the nature and origin of the debt, the analysis, findings and conclusions regarding the amount and validity of the debt, and, when appropriate, the repayment schedule for Federal salary offset. Issuance of these findings will be the final action on the debtor's request for review.

(2) If the findings state that an individual does not owe the debt, or the debt is not overdue, or we do not have the right to collect it, we will not send information about the debt to consumer or other credit reporting agencies or refer the debt to the Department of the Treasury for administrative offset. If we had referred the debt to the Department of the Treasury for administrative offset, we will cancel that action. If we had informed consumer or credit reporting agencies about the debt, we will inform them of the findings.

(3) If the findings state that the payment schedule for Federal salary offset would cause financial hardship, we will notify the debtor and the Department of the Treasury of the new payment schedule.

[71 FR 38071, July 5, 2006]

### Subpart E—Collection of Debts by Administrative Wage Garnishment

**AUTHORITY:** Secs. 205(a), 702(a)(5) and 1631(d)(1) of the Social Security Act (42 U.S.C. 405(a), 902(a)(5) and 1383(d)(1)) and 31 U.S.C. 3720D.

**SOURCE:** 68 FR 74184, Dec. 23, 2003, unless otherwise noted.

#### § 422.401 What is the scope of this subpart?

This subpart describes the procedures relating to our use of administrative wage garnishment under 31 U.S.C. 3720D to recover past due debts that you owe.

#### § 422.402 What special definitions apply to this subpart?

(a) *Administrative wage garnishment* is a process whereby we order your employer to withhold a certain amount from your disposable pay and send the withheld amount to us. The law requires your employer to comply with our garnishment order.

(b) *Debt* means any amount of money or property that we determine is owed to the United States and that arises from a program that we administer or an activity that we perform. These debts include program overpayments made under title II or title XVI of the Social Security Act and any other debt that meets the definition of "claim" or "debt" at 31 U.S.C. 3701(b).

(c) *Disposable pay* means that part of your total compensation (including, but not limited to, salary or wages, bonuses, commissions, and vacation pay) from your employer after deduction of health insurance premiums and amounts withheld as required by law. Amounts withheld as required by law include such things as Federal, State and local taxes but do not include amounts withheld under court order.

(d) *We, our, or us* means the Social Security Administration.

(e) *You* means an individual who owes a debt to the United States within the scope of this subpart.

#### § 422.403 When may we use administrative wage garnishment?

(a) *General.* Subject to the exceptions described in paragraph (b) of this section and the conditions described in paragraphs (c) and (d) of this section, we may use administrative wage garnishment to collect any debt that is past due. We may use administrative wage garnishment while we are taking other action regarding the debt, such as, using tax refund offset under §§ 404.520–404.526 and 416.580–416.586 of this chapter and taking action under subpart D of this part.